
UTAH LABOR COMMISSION

MARK D. EDGAR,

Petitioner,

vs.

CONSOLIDATED FREIGHTWAYS,

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 03-0132

Consolidated Freightways ("Consolidated") asks the Utah Labor Commission to review Administrative Law Judge Sessions' award of benefits to Mark D. Edgar under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.¹

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On February 4, 2003, Mr. Edgar filed an Application with the Commission claiming workers' compensation benefits for injury to his cervical spine allegedly caused by a work accident at Consolidated on September 26, 1995. Consolidated responded to Mr. Edgar's claim by asserting that his spinal problems were the result of other accidents and exertions that occurred after the work accident of September 1995.

Judge Eblen held an evidentiary hearing on Mr. Edgar's claim and then referred the medical aspects of the claim to an impartial panel of medical experts. However, while the matter was pending before the medical panel, Judge Eblen resigned from the Commission. Judge Sessions then assumed responsibility over the adjudication of Mr. Edgar's claim.

The medical panel submitted its report on August 13, 2005. In summary, the panel concluded that Mr. Edgar's work accident of September 1995 caused his on-going spinal problems, including his need for surgery in February 2002. The panel also concluded that Mr. Edgar reached medical stability from his work injury on November 11, 2002, leaving him with an 18% permanent whole person impairment. Judge Sessions accepted the panel's opinion and awarded medical benefits and disability compensation to Mr. Edgar accordingly.

In challenging Judge Sessions' decision, Consolidated argues that the Commission should

¹ Judge Sessions first issued "Findings of Fact, Conclusions of Law, and Order" on September 16, 2005, followed by a "Supplemental Order Amending Award Amounts" on September 28, 2005, and a "Supplemental Order" on October 14, 2005, correcting an error in the original Order. These three documents comprise Judge Sessions' decision in this matter.

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reject the medical panel's opinion and other evidence supporting Mr. Edgar's claim and, instead, accept the opinion of Consolidated's medical consultant that Mr. Edgar's spinal problems after 2001 were attributable to causes other than his September 1995 work accident at Consolidated.

FINDINGS OF FACT

The Commission adopts the findings of fact set forth in Judge Eblen's interim order and in Judge Sessions' decision.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers and their insurance carrier to pay medical benefits and disability compensation for accidental work-related injuries to employees. However, an injured worker seeking such benefits must prove, among other things, that his or her injuries are medically caused by the work accident.

Questions of medical causation can be factually and technically difficult. In light of the need for well-founded and unbiased medical opinion in resolving workers' compensation claims, § 34A-2-601 authorizes the Commission's ALJs to appoint impartial panels of experts to consider the medical aspects of disputed claims. In this case, the medical panel concluded that the spinal problems Mr. Edgar experienced through November 11, 2002, were medically caused by his work accident at Consolidated in September 1995.

The Commission notes Consolidated's assertion that the opinion of its own medical consultant should be accepted over that of the medical panel. However, the panel was comprised of two impartial and qualified medical experts specializing in medical disciplines that are relevant to Mr. Edgar's condition. The panel had the benefits of access to Mr. Edgar's entire medical history and all the previous opinions that have been rendered by other medical experts. The panel also had the opportunity to personally examine Mr. Edgar and to review his diagnostic and surgical reports. Finally, the panel's report is thorough and well-reasoned. For these reasons, the Commission finds the panel's opinion persuasive. The Commission therefore concurs with Judge Sessions' determination that a medical causal connection exists between the September 1995 work accident at Consolidated and the cervical spinal problems Mr. Edgar experienced through November 11, 2002.

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ORDER

The Commission affirms Judge's Sessions' decision. It is so ordered.

Dated this 31st day of July, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.